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CELEBRATION

OF THE

Adoption of the Constitution of the United States.

LETTER OF WILLIAM CAREY JONES,

OF CALIFORNIA,

To the Democratic Central Committee of Pennsylvania.

WASHINGTON, Sept. 15th, 1856.

GENTLEMEN:—I have had the honor to receive a request on your behalf, to attend a meeting of the Democracy, and all friends of the Constitution, to be held at Independence Square, in Philadelphia, on the occasion of the anniversary of the adoption of that charter of the Union and our liberties.

No invitation could have been more grateful to me; for there is no occasion, and no place, in which I should have so much satisfaction in raising my voice before my fellow-countrymen, especially at this crisis in the fate of that Union whose "more perfect" formation, and that Constitution whose establishment you propose thus appropriately to celebrate.

The day of the adoption of the Constitution ought to be observed as one of our national holidays. The Fourth of July brings annually a popular and patriotic jubilant. The Twenty-second of February serves to refresh our recollections of the great WASHINGTON, and his great associates. The addition of the *Seventeenth of September* to those national festivals, would give occasion for popular addresses and writings on the character, principles and purpose of the Constitution, making it more familiar to the public mind, hence more sacred to the public heart. No occasion can be fitter than the present to inaugurate that holiday into our annual commemorations.

I cannot promise to be present, and shall not, therefore, wish you to reserve me a place, when there are so many certain to be there, and glad to

address their fellow-countrymen on such an occasion. Whatever I should have to say would be for the Constitution and the Union: hence for that great patriotic party which now alone represents, if it may not indeed be said to constitute the Union, the party that alone of the political organizations of the day pervades the whole Union, and in all the States presents the same front, and offers to the national acceptance the same Constitutional doctrines.

To my apprehension, it is rather a *perversion of the Constitution* than a division of the Union, that we are immediately threatened with. I have never allowed myself to contemplate the possibility of a division of the Union. I can no more imagine a line of separation, than a line by which a human body might be cleft and the parts survive. But that the *harmony* of the Union may be broken up, and hence its advantages be lost; sectional discord and hate, (already so violent in words,) be fomented to the point of civil war; the Constitution be perverted by abuses and aggressions, and finally be overthrown; and that these dangers are imminent, are facts that no reflecting person can shut from his sight.

The point at which the Constitution is now chiefly threatened, is in those provisions of it which qualify the supremacy of mere numerical majorities by the element of State representation in the Senate, and in the election of the President: the features which give it its distinctive characteristics, make it a federative instead of a consolidated Union, and

which are the only safeguards to the States for retaining control over even their domestic legislation. There has been a tendency to that radical change in our Government for a long time, and an evident disposition, on the part of many politicians who are now marshaling the heterogeneous coalition that styles itself "Republican," to encourage that tendency and hasten it. It has lately been boldly and authoritatively avowed; and, in repeated instances in the recent sessions of Congress, was attempted to be carried by a *coup de force*. One of these attempts would have succeeded but for the decisive and prompt action of the President, in re-assembling Congress; nay, would still have succeeded, if the courage of the persons concerned in it had been equal to their malice.

The avowal that I allude to, was by Mr. Wilson, Senator of Massachusetts, at the nominating Convention of his party, held at Philadelphia, on the 17th of June last—of all places, Philadelphia, where the Union had its incipency by the first meeting of the First Congress of the United Colonies in 1774; where the Second Congress, of immortal memory, was also held; where Washington was appointed and commissioned the Commander-in-Chief of the Revolutionary forces; where the Declaration of Independence was written, adopted, and announced to the world; where, afterward, on the same spot that it had its incipency in 1774, the Union was finally established in the adoption of the Constitution; of all places, the place so replete of national reminiscences, the "City of Brotherly Love," not only in the sense that it is usually applied, but that ought emphatically to be the City of Brotherly Love to the people of the United States; of all places that City; of all days, and by a man of Massachusetts, the anniversary of the Battle of Bunker Hill, and of the commissioning of the illustrious Virginian to take charge of the armies then engaged in the protection of Boston and Cambridge: time, place, person, occasion, all chosen as if to give the greater emphasis to the avowal, and to enter a defiance of all patriotic associations, sympathies and ties.

Mr. Senator Wilson declared, on that occasion, that the "*freemen of the North have a right to govern the country,*" and that they (the Convention) had assembled "*to take the government of the Republic;*" and the declaration was received by the Convention with "enthusiastic cheers." I cite the words from the *National Intelligencer*, which "places on record" the speech of Mr. Wilson, and other prominent members of the Convention, in order that their readers, to use the words of those experienced and sagacious editors "*may have a view of the issues tendered, and the objects avowed by that body.*"

In pursuance of this declaration of Mr. Wilson, that his party were assembled for the purpose of "*taking possession of the Government,*" the mem-

bers of that party in the House of Representatives proceeded to the attempt—

First, In its proceedings against certain members of the House, on a suggestion that a personal encounter had taken place between Mr. Brooks and Mr. Sumner, in which the former had committed an assault and battery on the latter.

I do not say any thing of the merits of that encounter, for I have nothing to do with them. I regard the affair as purely personal as any other affair of assault and battery. It was, moreover, tried before the only tribunal that lawfully had cognizance of it, the Criminal Court of the county where it occurred, and the person who committed the assault paid the penalty of the law. Now, to make it a question of national concern, and bring it in for the purpose of further inflaming the public mind in a Presidential canvass, is to belittle our politics, and eminently to detract from our character as an intelligent people.

But the proceedings of the House of Representatives, in the matter, are another affair. They are, above all, of public concern. They involve among other things, an invasion of the rights of the constituencies whom the members prosecuted represented; an invasion of the rights and liberties of those members, both as such and as citizens; infractions of the Constitution of the United States in several particulars; an attempt of one branch of the legislature to arrogate both the making and administration of law.

The proceedings were under pretext of punishing a "breach of privilege" of the Senate, because the person assaulted was a Senator, and a "breach of privilege" of the House, because the assaulter was a member of the House. And the further pretexts, that senators and representatives cannot be questioned outside of their respective Houses for any speech or debate, and that the Senate and House may punish their members for "disorderly behavior." The provisions of the Constitution, under which alone either House derives any power, are plain. *First*, it says nothing about "breach of privilege;" neither the words, nor the idea are there; *Second*, the provision that for speech or debate in Congress, members shall not be elsewhere questioned, only means that no court or judicial tribunal shall take cognizance of a complaint so founded. If the clause means any thing beyond that, it cuts off all criticism by speech, in public assemblies, or the press, of the debates in the National Legislature, and so would nullify at least three provisions of the bill of rights attached to the Constitution. *Third*, the power to punish for "disorderly behavior" is only intended to enable the Houses of Congress to protect themselves in the exercise of their legislative functions, and prevent interruptions and disturbances whilst so engaged. Otherwise, they might institute an espionage into all the acts of their respective mem-

bers, and expel for whatever improper conduct; in which case, I imagine the present Congress would long since have been obliged to dissolve for want of a quorum.

As for the supposed "breach of privilege," there is such a thing in a parliamentary sense, and in that sense, the Constitution provides for it. In the present case, the only breach of privilege committed was by Mr. Sumner, in his speech in the Senate; and there he ought to have been called to order, and if he persisted, been "punished for disorderly behaviour;" a case that exemplifies what that provision of the Constitution means.

Parliamentary law prescribes what that privilege shall be, and how, in the body itself, an abuse of it may be corrected and punished. Criminal law, what shall be the penalty of resenting an abuse of it in an extra legal manner. It follows that Mr. Sumner was answerable to the Senate, and ought to have been rebuked by the Senate, and on the spot, for an abuse of the privilege of debate, by disrespectful allusions to other Senators, and to States of the Union; and that Mr. Brooks was answerable to the criminal law (the penalty of which he suffered,) for taking redress into his own hands.

The proceeding in the House was an exercise of judicial power, whereas, the Constitution declares that all judicial power of the United States shall be vested in the Courts thereof.

It was affixing a penalty not known to any law, and hence *ex post facto*.

It was holding persons to answer for (what the action of the House would make) an "infamous crime," without a presentment by a grand jury; and it was a criminal prosecution, in which the accused was not allowed "a speedy and public trial, by an impartial jury;" and so an invasion of personal rights declared by the Constitution.

The manner of getting up the indictment, and carrying on the prosecution, was full of absurdities and illegalities, and the result of it exhibited the House in a ridiculous attitude.

Mr. Edmundson and Mr. Keitt were called by the prosecutors as witnesses against Mr. Brooks, without being informed that there was any accusation against themselves; and then, solely on *their own testimony*, they were included in the indictment—made *their own accusers*, by means of testimony got out of them in another case. This is a slight of hand mode of getting up an accusation, and procuring a conviction hardly worthy of the jurisprudence of this day.

A curious feature in the case, was the character of the offences charged on Mr. Edmundson and Mr. Keitt. They were arraigned for *not betraying the confidence of a friend!* A more curious feature, that the indictment presents *precisely the same state of facts* in regard to Mr. Edmundson and Mr. Keitt, yet one was convicted by the House, the other acquitted!

Finally. The House created the offence, prescribed the penalty, and defined the manner of the prosecution and trial, all in direct violation of Constitutional guarantees—thus at once usurping the legislative power and invading the Constitution.—They acted in a judicial capacity—thus usurping the functions of the Constitutional Judiciary, and again invading the Constitution; in both, invading personal liberties guaranteed in the Bill of Rights.

It is in this view that those proceedings in the House of Representatives are arraigned, as one of the attempts on the part of leaders of the "Republican" coalition to break down, by force of numbers, the limitations of the Constitution, and concentrate the powers of the government in factious majorities of the House, and the power of the country in a local, sectional majority, regardless of State rights; in short, in the words of Mr. Senator Wilson, to "*take possession of the government.*"

In this respect, those proceedings ought to be analyzed, and held to the view of, not alone the "free men of the North," thus unjustly charged with desiring to usurp the government, but by the *freemen of the country*, to whom alone belongs the "right to govern the country," and to them only in accordance with the Constitution.

The other attempts that I have alluded to, as made at the late session of Congress, on the integrity of the government and to pervert the Constitution, are those persistent propositions to attach to the bills for the support of the government, matters extraneous to the purpose of the bills, and known to be objectionable to the other branch of Congress and to the executive. Those propositions were wrong in themselves, and their unconstitutionality as they were originally presented, was so clearly shown, that their advocates were compelled, in mere self-defence, to pass them through a series of modifications; but at last, and as finally insisted on, they exhibited at least this unconstitutional and aggressive feature, that they proposed to deprive the President of his constitutional function as Commander-in-Chief of the Army. In other respects also, they were objectionable, considered even as naked propositions, offered for the free consideration of Congress and the Executive.

But it is not a question touching the merits of the propositions, that I suppose to be before the country, but the manner in which they were attempted to be forced on the acceptance of the Senate, and the approval of the President.

In this view, they were clearly a premeditated attempt on the part of a sectional majority in the House of Representatives, to seize the powers of the State, and coerce the Senate and the President into their support, under pain of a dissolution of the government.

In this aspect it is they are serious. In this aspect they are pursuant of Mr. Senator Wilson's declaration of the intention of an exclusively sec-

tional coalition, by force of numbers, and regardless of the rights and independence of the States, and of the limitations of the Constitution, to "take possession of the Government." Had this attempt succeeded in all the bills to which the propositions were attached in the House, it would have amounted to a dissolution of the Government, or a change in its character, according as the Senate and the President had yielded to the coercion of the House, or remained true to their constitutional functions. In the Army bill the attempt was very near succeeding; and the only reasons why it did not succeed, are those stated above. Had it succeeded, it would have worked, to that extent, a dissolution of the Government, and afforded a precedent to future factions and sectional majorities in the House, that must have led to the destruction of our present form of government.

But, again, what is the essential idea of the "Republican" coalition? Its leaders profess that they do not contemplate or desire any interference with any domestic affair of any of the States; and many of them treat with contempt the idea that they care anything for slaves or slavery, beyond the use of the words to inflame the prejudices of their constituencies in order to gain political power.

I think that many of them are actuated by that motive—though, if there could be a worse one, I have never heard it suggested—and that no immediate aggressions, in that respect, on the Slaveholding States, would follow the success of the "Republican" coalition. But it has never been given to persons who excite and use popular passion, prejudice and fanaticism, to control the fires that they light; and though those leaders would now persuade the friends of the Constitution and the Union, and have deluded many sincere persons into the idea that nothing is intended against the internal rights of the States, they know that the promise is fallacious, and that the present success of their party would necessitate to those who would keep at its head further and further concession, and more and more stimulus to the passions they are now arousing. The "taking possession," therefore, of the government, according to Mr. Wilson's programme, by a sectional party, dominated by sectional ideas, its ambition inflamed by the possession of power, and with the belief that it was engaged in a philanthropic enterprise, could not fail ultimately, (and before long), to lead to encroachments on the internal affairs of the States. We have not, then, a question of the good faith or good intentions of this or that candidate, or this or that leader of the Republicans, or of all combined; but the tendency—the consequences of the ideas, principles, desires and sentiments that have brought about the present formidable combination of (in other respects) discordant elements. That tendency is, to break up the federative principle of the Union, pervert the Constitution, and concentrate

in a sectional interest, and in a sectional majority of the House of Representatives, the government of the Republic; and what the consequences of that revolution would be, do not need to be depicted.

But, moreover, the essential idea, even now, on which the Opposition has concurred, is that there is a natural and necessary antagonism between the people of those States which do, and of those which do not, admit of domestic slavery. Read their resolutions, their addresses, their speeches, their letters, their presses. The most moderate of them enunciate distinctly that idea. It is their rallying point—their war cry. Now, the proposition must be false, or one of two things must happen.

If it be not false, then the Union must either be broken up, or it must be held together by force. If the two parts are actually antagonistic, it is impossible that they shall be kept together but by coercion. It is the belief of the Democratic party that the proposition is false—totally false; that there is no necessary antagonism; that, on the contrary, there is a mutual interest, a mutual attraction, and that all parts of the Union may remain harmoniously together, to the mutual advantage of all parts, by a mutual reaction of benefits. The contrary idea—the idea of antagonism—is the key to Mr. Wilson's declaration of the intention of his party, to "take possession of the government." It means, we will overcome the antagonism by subjugation. It means that, if it means anything.

Whilst preparing this letter, I have met with a remarkable extract of an address of Mr. Speaker Banks, lately made in Massachusetts. Says that gentleman: "At no moment of my life, in no paroxysm of indignation, under no feeling of excitement, have I ever uttered a word or cherished a thought, except that of the highest veneration and deepest love for the union of these States. Long may it continue as it is, unchanged! Long may it continue!—so long as the stars of the firmament of God above us shall be the bright prototype of the stars of our glorious Union. But I have to say what I know to be true, that in no event of human history will the Union of these States be dissolved.

"I can conceive of a time when THIS CONSTITUTION shall not be in existence, when we shall have an absolute military dictatorial government, transmitted from age to age, with men at its head who are made rulers by military commission, or who claim an hereditary right to govern those over whom they are placed. But the dissolution of these States will never come. No party that has possession of the Union will allow the minority to break the bands."

Ah, Mr. Banks, Mr. Banks, are not the thoughts developed in those lines that I have emphasized, fathered by the wish? You are a man of too keen a perception and too deductive a mind, not to have followed to their consequences the measures distinctive of your party at the late session of Con-

gress, of which, by your superior talents, activity, and decisive character among your associates, you were the stay and support. At all events, you now shadow forth those consequence. If you have not foreseen, and do not desire them, be warned by them, and by the boastful menace uttered by the principal character in your late Convention at Philadelphia, with the approbation of that assembly. You may be right, sir, that by geographical necessities, by force of circumstances, or force of arms, the Union may be preserved, though the Constitution be lost. But your brilliant comparison will not then serve.

The constellation of our Union can only be prototyped by the stars of the firmament, whilst the orbs that compose it, like those of the Heavenly constellations, move in their separate tracks, and all harmoniously together. That figure can no more charm our imaginations, or warm our hearts, when the avowed purposes of others, and the apparent purposes of yourself, shall have been accomplished, and, instead of a constellation, we see but a single orb, and that with all fiery and bitter elements raging in its midst. You may be right, that no party that shall "have possession of the Union" will permit a division, a separation of it; and hence that it cannot be divided. But I will tell you what can happen to it, and what no party, no human power can save it from, if you and those who are with you succeed in sufficiently combining the baleful elements with which you work, inflaming the passions of those who trust and honor you, and exasperating their countrymen elsewhere. If the Union cannot be divided—if it cannot be rent in twain—these angry heats that you are raising, will certainly explode it, burst it in fragments. Where, then, will be your brilliant comparison of the gems on our flag, with the stars on high? The regions of space will still offer you a similitude: those fragmentary bodies, that nightly present to the eye of science the dark spectacle of ruined worlds.

Gentlemen of the Committee, there will be present, no doubt, at your Constitutional Celebration, many citizens of your neighboring States of New Jersey and Delaware, and the more distant one of Rhode Island. Those are gallant States. None stand more conspicuous, or with more honor reflected on them, in the struggles foreign and internal, that so happily ended in the adoption of the Constitution. They showed an unsurpassed magnanimity of character, (and which they have ever since maintained,) in perhaps the most trying hour of all our history; that which preceded the ratification of the Articles of Confederation. The question of the ownership of the great territories west of the then populated portions of the States, and which, if won, were to be won, as well as the independence of the States themselves, in a common cause, threatened to break up even the loose alliance that then

existed. In this emergency, those States more interested than any of the others could be in a prior settlement of the question, with that trust which consciousness of rectitude inspires, entered into the Confederation unconditionally, and the articles proposed by the general Congress were ratified. Then the great domain of the West was voluntarily ceded for the common cause, and so the Government was enabled to sustain itself, and push to triumph the war of the revolution. The first named of these States (Delaware) was the first to adopt the Constitution—namely, 7th December, 1787. The second named (New Jersey) was only eleven days after. Rhode Island was the last of the THIRTEEN that consented to merge any portion of her sovereignty more than she had yielded in the articles of confederation.

Will the citizens of those small States—New Jersey, Delaware, Rhode Island, Connecticut - or of any of them, consent to the scheme by which their weight in the Federal Government, their equality with their more powerful neighbors in the Senate, and their participation as States in the electorship of the President, are to be lost? I cannot believe that they, or any of them, will aid in the destruction which is threatened of that Constitution *by which alone they live*—by which alone they retain their respective names; by which alone they remain New Jersey, Delaware, Rhode Island and Connecticut. Their absorption by their powerful and populous neighbors—their utter demolition as States—is the fate that threatens them, is the fate that will befall them, in the event of the success of that formidable coalition whose dark portent shadows the land.

Gentlemen of the Committee, there are many of our fellow citizens, who are irresistibly led, in this juncture, to the support of our candidates, who do not adopt the "platform," or the general principles of the Democratic party. The true doctrine is, let them come; open wide your doors; invite them; spread the feast; so only that they accept so much of the platform as sustains the Constitution and the Union, welcome them with hand and heart. The candidates presented by the Democratic party are worthy to be supported by any patriot; and the position of the party itself, as the party of the nation, draws to its support large numbers who never before acted with it. They are entitled to be heard in the management of the contest; and their feelings, wishes, preferences, to be consulted; and that will greatly aid in our success.

The part of the "platform" which has, perhaps, been most criticised, is that which relates to the foreign policy of our country. But, let the warmest lover of peace, the most timid of capitalists, or any other person tell us in what instance our country has lost either in dignity and respect abroad, or power at home, by holding a firm attitude in respect of any question with foreign States? Indeed;

I am convinced that our country never has acted fully up to its part among nations; and the more fully that it does act up to it, the less it will be liable either to threatenings or war.

A distinctive feature of the declaration of principles and intentions announced at the Democratic Convention at Cincinnati, is particularly gratifying to the people of the Pacific coast, of which I am—that which pledges the Democratic party to use the powers of the government in the construction of a railroad—a national highway—through the territories of the Union which lie between the Atlantic States and those of the Pacific. Such a work is not of so much pecuniary importance to California as to the States of the Atlantic. But in our isolated condition, it has to us a peculiar and absorbing interest. Out in that remote part, we are quite as loyal to the Union—perhaps more so, because your sectional feuds are there hardly felt—as any of the States on the Atlantic side. Besides that, we have our social relations here; our parents and kin of all degree, our friends and old associations. For these reasons we wish, *and now*, such a communication as the telegraph and a railroad would furnish, that our political connection may be more complete, and our social attachments be kept alive. We know, moreover, that though pride in the American name, the love for the Union in which we were bred, and the ties of kindred and affection,

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part of, cannot reach the height of power and
re-nown of which it is capable, except its borders ex-
tend to both the great oceans. A resolution, that
such a communication shall be made, was therefore
peculiarly appropriate, from that party to which is
committed, at this moment, the preservation of the
Union—the Union of East and West, as well as
North and South. With the sagacity that marks
that party, it has perceived, that without a direct
communication, the long continuance in the Union
of the Pacific slope would be not only a moral and
political, but a physical impossibility; and hence
have resolved, that such a communication shall be
made. You of the Atlantic States know and feel
what stores of wealth are added to you twice a
month from the Pacific; but you have not per-
ceived, nor reflected, how important and conserva-
tive a part is to be acted, in the future of the Re-
public, by the nine or ten States that are to come
of the Golden Hesperia. Very respectfully, your
fellow-citizen,

WM. CAREY JONES.

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